Port of Seattle

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August 11, 2023

By email: EastWaterWayComments@epa.gov

Attn: East Waterway Proposed Plan
c/o Laura Knudsen
U.S. EPA Region 10
1200 Sixth Avenue, Suite 155
Superfund Records Center, Mail Stop 17-C04-1
Seattle, WA 98101

Dear Ms. Knudsen:

On behalf of the Port of Seattle ("Port"), I am pleased to submit these comments on EPA's Proposed Plan for the Harbor Island Superfund Site, East Waterway Operable Unit ("East Waterway" or "Site"). The Port has also submitted comments as part of the East Waterway Group ("EWG") with the City of Seattle and King County. This letter reflects the Port's individual comments.

The Port is highly supportive of the Superfund cleanups throughout the region. September 2023 will mark the 40th anniversary of the listing of the Harbor Island Superfund Site on the National Priorities List. The East Waterway is one of the only operable units at a site included in the initial 1983 NPL site listings that does not yet have a Record of Decision. The Port commends EPA for finally moving the cleanup forward, and as discussed further below, strongly supports the Preferred Alternative that EPA has selected in the Proposed Plan. This alternative is expected to achieve a greater than 93% reduction in PCB concentrations at the Site. It represents the maximum cleanup practicable for this site and has been shown through the Feasibility Study to be the most efficient approach to cleanup.

We have significant concerns, however, about implementing such a remedy through an interim (as opposed to final) Record of Decision ("ROD") and we urge EPA to reconsider its administrative approach. A final ROD is essential to the sustainability of the Waterway as a regional economic engine in that any future deepening can only occur after a final cleanup. Finally, while we share EPA's vision for a clean watershed, we encourage EPA to be transparent with the public about the limited scope of what CERCLA cleanup actions can achieve and what obligations the eventual ROD can impose. This cleanup will be a significant benefit for removing legacy contaminants in the East Waterway. EPA has other regulatory tools to address non-point source pollution in the broader watershed, and we support EPA pursuing those tools to improve water and sediment quality throughout the basin.

About the Port of Seattle

The Port of Seattle is a public, independent municipal agency that is a significant economic engine for the Pacific Northwest and the country. The Port is governed by an elected board of five commissioners who serve staggered four-year terms as representatives of King County residents.

As part of the Northwest Seaport Alliance in partnership with the Port of Tacoma, it is one of the largest container ports in North America and serves as a gateway for exports and imports between Asia and the Midwest, Ohio Valley, and East Coast. Marine cargo activity at NWSA facilities drives $12.4 billion in economic activity in Washington state. This work combined with our other port businesses supports nearly 200,000 jobs. The Port is committed to stewarding our environment responsibly, partnering with surrounding communities, and conducting ourselves transparently.

Over the past 30 years, the Port has been an active and cooperative Potentially Responsible Party (PRP) at several regional Superfund sites, including Harbor Island, the Pacific Sound Resources site, and the Lower Duwamish Waterway. In collaboration with EPA, the Port facilitated the cleanup and redevelopment of two major National Priorities List (NPL) sites during the 1990s, including moving through the entire Superfund process for the upland portion of the Pacific Sound Resources site in only seven years. Similarly, the Port collaborated with EPA to carry out the Harbor Island Soil and Groundwater Operable Unit cleanup in conjunction with the redevelopment of a major Port container terminal. In 2004, EPA awarded the Port its prestigious Phoenix Award recognizing excellence in brownfield redevelopment. We hope to continue applying that same collaborative spirit to the East Waterway.

About the East Waterway

The East Waterway is a 1.5-mile long, 750-feet wide, 51-feet deep industrial harbor just south of downtown Seattle. The west bank of the Waterway is Harbor Island, a 430-acre artificial island created from fill in the early 1900s. The Port owns the majority of Harbor Island, home to the Port's Terminal 18, a 196-acre intermodal container terminal. Also located on Harbor Island is a shipbuilding facility that has operated since 1916; and tank farm facilities that include one terminus of the 400-mile Olympic Pipeline. The east bank of the Waterway connects to downtown Seattle. It is home to the Port's Terminal 25 and Terminal 30 cargo facilities; at the mouth of the Waterway, just to the north of the Port's facilities, is the U.S. Coast Guard Base Seattle.

The Port is eager to move forward with cleanup of the East Waterway because it is both an important component of the unique Puget Sound environment – home to a major salmon run on which local Tribal governments and endangered Southern Resident Killer Whales depend – and is a critical trade infrastructure link for both the regional and national economies. Facilitating environmental improvements and improving trade transportation infrastructure are core missions of the Port, and cleanup of the Waterway is one component of anticipated redevelopment projects that will keep the Port internationally competitive and a leader in environmental sustainability. The stage is set for another "win/win" cleanup and redevelopment effort like we achieved together in the 1990s.

The Port Supports EPA's Preferred Alternative for the Maximum Cleanup Practicable

Subject to the technical comments provided in the EWG joint comment letter, the Port strongly supports the EPA's Preferred Alternative (a modified version of Alternative 3B(12)) identified in the Proposed Plan, which represents the maximum cleanup practicable for the site. Approximately

121 acres (100 football fields) of the 157-acre site will be actively remediated. Approximately 940,000 cubic yards of contaminated sediments will be removed for upland disposal; that is 280 Olympic size swimming pools worth of volume. In addition to the dramatic reduction in contaminant concentrations that this effort will achieve, the Port commends EPA for selecting a cleanup action of landmark scale that will substantially reduce risks to human health and the environment. We also applaud the selection of an aggressive remedy that centers worker safety and does not include under-pier, diver-assisted dredging, which creates grave risks with no significant environmental benefit.

No other proposed cleanup alternative could provide greater risk reduction than the Preferred Alternative. In addition, as part of its work developing the Feasibility Study, the East Waterway Group considered a "maximum cleanup" option involving dredging *all* accessible areas in the Waterway, then dredging those areas *again* in an effort to reduce contamination from dredging residuals. Even that option provided no additional increment of risk reduction greater than the proposal that EPA has now selected.

The Port Urges EPA to Adopt a Final Record of Decision

Despite selecting the most aggressive cleanup alternative practicable, EPA has proposed an "interim" remedy for the site. Generally speaking, an interim remedy is limited in scope and typically would be followed by additional remedial actions. Without clear language in the ROD describing that the action is intended to be the final action and that no further action could improve site conditions, the "interim" designation in the Proposed Plan incorrectly implies to the public and stakeholders that more sediment cleanup actions will be performed in the future with additional risk reduction.

As described further in the EWG joint comment letter and its attachments, because of the comprehensive nature of the Preferred Alternative and the fact that there is simply no additional work in the Waterway that could improve environmental conditions, it is appropriate for implementation of this remedy to be considered a final action. EPA can set the cleanup goal that it deems appropriate and include it in a final ROD; if it turns out, decades from now, that the targeted concentrations will not be met, EPA will have the option of a technical impracticability waiver. It is critical for the public to understand that a final ROD would not change the selected remedy or the work performed under the Preferred Alternative -- the full remedial action will occur whether the ROD is interim or final.

Shifting EPA's proposed approach to a final action is necessary out of respect for the funding parties – public agencies whose leaders are elected by the voters of King County – and their taxpayers. The Proposed Plan estimated the cost of the cleanup to be around $290 million in 2016 dollars. With the escalation we have seen in recent years of marine construction costs in the Northwest, the proposed remedy could easily cost $580 million or more. This is a significant public investment. This cleanup will be funded by the taxpayers of King County through the Port property tax levy, King County property tax, King County and Seattle City Light/Seattle Public Utilities rates. EPA acknowledges that it will take decades to assess whether its aspirational goals have been achieved – and if the cleanup does not achieve those goals, it will be viewed as a failure. Re-doing

the cleanup at that point, decades from now, would be a huge cost and burden on taxpayers for no additional risk reduction.

A final ROD is also very important to enabling the ongoing sustainability (both financial and environmental) of the Port's operations, which are critical to the economic health of the region. EPA staff have indicated that, under the current proposal, a final ROD would only be issued when EPA can determine how the concentrations of certain contaminants (e.g., PCBs) equilibrate after the active remediation is complete – a process that EPA has acknowledged will take *decades*. In the meantime, the East Waterway will continue to be a nationally significant active commercial waterway.

The East Waterway channel will soon need to be deepened to allow newer, deeper-draft ships to call at the Port's vital Harbor Island/East Waterway cargo terminals. Congress authorized this work in 2018 through the Seattle Harbor Navigation Improvement Project (SHNIP), which enables the U.S. Army Corps of Engineers to deepen both the east and west waterways in the Seattle Harbor to -57 ft mean lower low water (MLLW). The Corps is responsible for the deepening work but has indicated a strict and inflexible position that the deepening cannot proceed until the cleanup is complete – and an administrative necessity of "completion" is the implementation of a final, not interim ROD.

Deepening the East Waterway will have significant benefits for the local community, the state, and the region. A deeper channel allows bigger, deeper-draft ships, which can carry more cargo. These larger ships make fewer trips, reducing both the cost of goods *and* the potential negative impacts of shipping operations. These more modern ships are also "greener" in their environmental footprints than their existing counterparts – more likely to be capable of connecting to shore power and more likely to run on cleaner alternative fuels. Being able to welcome these newer ships also helps keep our Port competitive, in turn keeping thousands of unionized, family-wage jobs available. Deepening can also benefit and afford greater flexibility to the U.S. Coast Guard, which intends to expand its base on the East Waterway.

The Record of Decision Must Be Transparent

We applaud and support EPA's desire for a pristine watershed. Through local, state and national programs, this region has worked hard to improve both water quality and habitat throughout our river basins including the Green-Duwamish Watershed. We understand that a regional perspective in addressing sources of contamination throughout the Green-Duwamish River watershed (including the industrialized Kent Valley) is essential to ensure the stewardship of our natural resources for future generations, but it is not clear how a CERCLA sediments cleanup at the mouth of the watershed can address watershed-wide pollution. We know that many community members hope that the East Waterway cleanup will achieve natural background concentrations of PCBs. Implying that this aspirational goal is achievable, however, creates misleading expectations and misunderstandings about the role of the East Waterway CERCLA cleanup.

EPA's Record of Decision must be guided by a CERCLA framework, addressing the cleanup of the *Site* – i.e., East Waterway sediments – rather than a watershed-wide source control "vision."

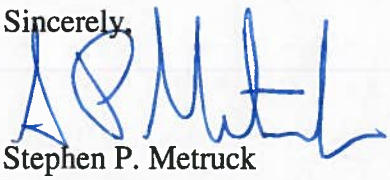
The Port agrees that this broad approach is desirable, but a ROD for a sediments site is simply not the place to set expectations for source control activities that must occur miles upstream by parties and jurisdictions that have no identifiable nexus to the Site. EPA should be transparent that this "vision" – while commendable – is not and cannot be an enforceable part of the required cleanup of the East Waterway sediments.

Conclusion

We understand that EPA staff have worked tirelessly to develop the East Waterway Proposed Plan. The Port supports moving forward with the Record of Decision and implementing the cleanup as efficiently as possible. To do so, it is of critical importance that the selected remedy be final, not interim, and be transparent to the public concerning what it can and cannot achieve.

The East Waterway cleanup will be a significant improvement and a showcase of how we can balance environmental remediation in an active commercial waterway in a region that values its environment and community. The Preferred Alternative is an aggressive cleanup that the Port supports. Its completion decades from now should be a moment to celebrate for the region – a true win for one of the nation's first Superfund sites. Unfortunately, EPA's proposed approach could mislead the public into believing that natural background concentrations are achievable in the East Waterway through the CERCLA process. When that does not occur, what should have been a win/win success story for the environment, the community, and the economy will instead be regarded as a failure. We now have an opportunity to work together to implement a remedy that will make this Site a success after more than 40 years; the Port is eager to do so and looks forward to continuing its work alongside EPA.

Sincerely,



Stephen P. Metruck

cc: Casey Sixkiller, EPA Region 10 Administrator
Calvin Terada, Director, EPA Region 10 Superfund and Emergency Management Division
Barry Breen, Acting Assistant Administrator, EPA Office of Land and Emergency Management
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Laura Watson, Director, Washington State Department of Ecology